

# **EXHIBIT 44**

**SUPREME COURT OF THE STATE OF NEW  
 YORK NEW YORK COUNTY**

**PRESENT: HON. BARRY R. OSTRAGER PART IAS MOTION 61EFM**

*Justice*

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PACIFIC ALLIANCE ASIA OPPORTUNITY FUND L.P.,

Plaintiff,

- v -

KWOK HO WAN, a/k/a KWOK HO, a/k/a GWO WEN  
 GUI, a/k/a GUO WENGUI, a/k/a GUO WEN-GUI, a/k/a  
 WAN GUE HAOYUN, a/k/a MILES KWOK, a/k/a  
 HAOYUN GUO, GENEVER HOLDINGS LLC, and  
 GENEVER HOLDINGS CORPORATION,

Defendants.

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HON. BARRY R. OSTRAGER

INDEX NO.	652077/2017
MOTION DATE	
MOTION SEQ. NO.	006

**DECISION + ORDER ON MOTION**

On July 7, 2020, the Court held extensive oral argument via Skype, with counsel for all parties participating, in connection with the motion by plaintiff Pacific Alliance Asia Opportunity Fund L.P. (“PAX”) for monetary sanctions against defendant Kwok Ho Wan (“Kwok”) and his counsel based on purportedly false deposition testimony given by defendant Kwok. In accordance with the decision on the record at the conclusion of the argument, the Court denies the motion insofar as it seeks monetary sanctions.

However, the Court holds that defendant Kwok is judicially estopped from challenging, in opposition to plaintiff’s summary judgment motion or at trial, the authenticity of documents defendant Kwok previously sponsored in proceedings before this Court, notwithstanding that defendant Kwok sought to disavow his signature on those documents during his deposition. Should the matter proceed to trial, those documents will be admitted into evidence.

As previously ordered, any summary judgment motion shall be filed within 21 days of this decision. To ensure a timely decision, the motion shall be filed by Order to Show Cause with

an expedited briefing schedule. The October 5, 2020 jury trial remains scheduled for that date, subject to issues related to any pandemic-related restrictions on the ability of witnesses to travel to the United States from Hong Kong and any limitations at the courthouse related to jury trials.

A final pre-trial conference is scheduled for September 14, 2020 at 10:00 a.m. in Room 232 at 60 Centre Street, if circumstances permit, or via Skype.

Dated: July 7, 2020



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BARRY R. OSTRAGER, J.S.C.

CHECK ONE:

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CASE DISPOSED

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NON-FINAL DISPOSITION

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GRANTED

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DENIED

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GRANTED IN PART

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OTHER

APPLICATION:

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SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

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FIDUCIARY APPOINTMENT

☐

REFERENCE